

110TH CONGRESS
2D SESSION

H. R. 5691

To amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for State and local real property taxes on principal residences of taxpayers who elect not to deduct State and local income and general sales taxes, a refundable credit for the increased cost in 2008 of heating oil used to heat the principal residence of the taxpayer, and to increase and make permanent the deduction for qualified tuition and related expenses.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2008

Ms. SHEA-PORTER introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for State and local real property taxes on principal residences of taxpayers who elect not to deduct State and local income and general sales taxes, a refundable credit for the increased cost in 2008 of heating oil used to heat the principal residence of the taxpayer, and to increase and make permanent the deduction for qualified tuition and related expenses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Middle Class Assist-
3 ance Act of 2008”.

4 **SEC. 2. ABOVE-THE-LINE DEDUCTION FOR STATE AND**
5 **LOCAL REAL PROPERTY TAXES ON PRIN-**
6 **CIPAL RESIDENCES OF TAXPAYERS WHO**
7 **ELECT NOT TO DEDUCT STATE AND LOCAL**
8 **INCOME AND GENERAL SALES TAXES.**

9 (a) IN GENERAL.—Subsection (a) of section 62 of the
10 Internal Revenue Code of 1986 (defining adjusted gross
11 income) is amended by inserting after paragraph (21) the
12 following new paragraph:

13 “(22) DEDUCTION FOR STATE AND LOCAL
14 REAL PROPERTY TAXES ON PRINCIPAL RESIDENCES
15 OF TAXPAYERS WHO DO NOT DEDUCT STATE AND
16 LOCAL INCOME AND GENERAL SALES TAXES.—

17 “(A) IN GENERAL.—In the case of an eligi-
18 ble individual, the deduction allowed by section
19 164 for State and local real property taxes to
20 the extent such taxes are attributable to—

21 “(i) property located in the United
22 States, and

23 “(ii) for a period that such individual
24 (or such individual’s spouse) owned and
25 used the property as their principal resi-
26 dence (within the meaning of section 121).

“(B) ELIGIBLE INDIVIDUAL.—For purposes of subparagraph (A), the term ‘eligible individual’ means any taxpayer who elects for the taxable year to apply section 164 without regard to—

“(i) the reference to State and local income taxes in section 164(a), and

“(ii) the election under section 164(b)(5) (relating to election to deduct State and local sales taxes in lieu of State and local income taxes).”.

(b) NO AFFECT ON AMT.—Subparagraph (A) of section 56(b)(1) of such Code is amended by adding at the end the following new sentence: “Section 62(a)(22) shall not apply for purposes of the preceding sentence.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 3. REFUNDABLE CREDIT FOR INCREASED 2008 HOME HEATING OIL COSTS.

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to rules of special application) is amended by adding at the end the following new section:

1 **“SEC. 6431. REFUNDABLE CREDIT FOR INCREASED 2008**
2 **HOME HEATING OIL COSTS.**

3 “(a) IN GENERAL.—In the case of an eligible indi-
4 vidual, there shall be allowed as a credit against the tax
5 imposed by subtitle A for the first taxable year of the tax-
6 payer ending on or after December 31, 2008, an amount
7 equal to the taxpayer’s increased 2008 home heating oil
8 costs.

9 “(b) LIMITATIONS.—

10 “(1) MAXIMUM CREDIT.—The credit allowed by
11 this section for the taxable year shall not exceed
12 \$500.

13 “(2) LIMITATION BASED ON ADJUSTED GROSS
14 INCOME.—The dollar amount applicable under para-
15 graph (1) (determined after the application of sub-
16 section (e)(2)) shall be reduced (but not below zero)
17 by the amount which bears the same ratio to such
18 applicable dollar amount (as so determined) as the
19 excess of the taxpayer’s adjusted gross income over
20 \$200,000 bears to \$10,000.

21 “(c) ELIGIBLE INDIVIDUAL.—

22 “(1) IN GENERAL.—For purposes of this sec-
23 tion, the term ‘eligible individual’ means any indi-
24 vidual whose principal residence is located in the
25 United States.

1 “(2) EXCEPTION.—Such term shall not in-
2 clude—

3 “(A) any nonresident alien individual, and

4 “(B) any individual with respect to whom
5 a deduction under section 151 is allowable to
6 another taxpayer for a taxable year beginning
7 in the calendar year in which the individual’s
8 taxable year begins.

9 “(d) INCREASED 2008 HEATING OIL COSTS.—For
10 purposes of this section—

11 “(1) IN GENERAL.—The term ‘increased 2008
12 heating oil costs’ means the excess (if any) of—

13 “(A) the amount paid by the taxpayer for
14 heating oil used to provide space heating for the
15 principal residence of the taxpayer during 2007,
16 over

17 “(B) the amount paid by the taxpayer for
18 heating oil used to provide space heating for
19 such residence during 2008.

20 “(2) USE AS PRINCIPAL RESIDENCE FOR LESS
21 THAN ENTIRE YEAR.—If the principal residence of
22 an individual is not the same throughout 2007 and
23 2008, the limitation applicable to such individual
24 under subsection (b) shall be the amount equal to—

1 “(A) such limitation (determined without
2 regard to this paragraph), multiplied by

3 “(B) the smaller of—

4 “(i) the fraction of 2007 (determined
5 on a daily basis) that such residence was
6 the principal residence of the individual, or

7 “(ii) the fraction of 2008 (as so deter-
8 mined) that such residence was the prin-
9 cipal residence of the individual.

10 “(3) RENTERS.—In the case of an individual
11 who occupies a unit in a building as a tenant, such
12 individual shall be treated as paying the individual’s
13 allocable share (determined as provided by the Sec-
14 retary) of the heating oil used to provide space heat-
15 ing for such building.

16 “(4) HEATING OIL NOT USED THROUGHOUT
17 PERIOD.—If substantially all of the space heating
18 for a residence is not provided by heating oil con-
19 sumed at such residence throughout 2007 and 2008,
20 the application of this section shall be determined
21 under regulations prescribed by the Secretary.

22 “(e) SPECIAL RULES.—

23 “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-
24 tion shall be allowed for the amount described in
25 subsection (d)(1)(B) (otherwise allowable as a de-

1 duction for the taxable year) which is equal to the
 2 amount of the credit determined for such taxable
 3 year under this section.

4 “(2) DOLLAR AMOUNT IN CASE OF JOINT OCCU-
 5 PANCY.—In the case of a dwelling unit which is the
 6 principal residence by 2 or more individuals, the dol-
 7 lar limitation under subsection (b)(1) shall be allo-
 8 cated among such individuals in proportion to their
 9 respective payments of the 2008 heating oil costs.

10 “(3) CERTAIN OTHER RULES TO APPLY.—Rules
 11 similar to the rules of paragraphs (5), (6), and (7)
 12 of section 25D(e) shall apply for purposes of this
 13 section.

14 “(f) PRINCIPAL RESIDENCE.—For purposes of this
 15 section, the term ‘principal residence’ has the meaning
 16 given to such term by section 121; except that no owner-
 17 ship requirement shall be imposed.

18 “(g) TREATMENT AS REFUNDABLE CREDIT.—For
 19 purposes of this title, the credit allowed by this section
 20 shall be treated as a credit allowed under subpart C of
 21 part IV of subchapter A of chapter 1 (relating to refund-
 22 able credits).”.

23 (b) TECHNICAL AMENDMENTS.—

1 (1) Paragraph (2) of section 1324(b) of title
 2 31, United States Code, is amended by inserting “or
 3 6431” after “section 35”.

4 (2) The table of sections for chapter 65 of such
 5 Code is amended by adding at the end the following
 6 new item:

“Sec. 6431. Refundable credit for increased 2008 home heating oil costs.”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 2007.

10 **SEC. 4. DEDUCTION FOR TUITION AND RELATED EXPENSES**

11 **INCREASED AND MADE PERMANENT.**

12 (a) DEDUCTION MADE PERMANENT.—Section 222 of
 13 the Internal Revenue Code of 1986 (relating to qualified
 14 tuition and related expenses) is amended by striking sub-
 15 section (e).

16 (b) DEDUCTION INCREASED.—Subsection (b) section
 17 222 of such Code is amended to read as follows:

18 “(b) DOLLAR LIMITATIONS.—

19 “(1) JOINT RETURNS.—The expenses of each
 20 student which may be taken into account under this
 21 section for any taxable year shall not exceed the ap-
 22 plicable limit determined in accordance with the fol-
 23 lowing table:

“If adjusted gross income—	The applicable limit is—
Does not exceed \$130,000	\$6,000

“If adjusted gross income—	The applicable limit is—
Exceeds \$130,000 but does not exceed \$160,000	\$3,000
Exceeds \$160,000 but does not exceed \$200,000	\$1,500
Exceeds \$200,000	0.

1 “(2) OTHER TAXPAYERS.—In the case of tax-
2 payers not filing a joint return, the table contained
3 in paragraph (1) shall be applied by substituting
4 amounts of adjusted gross income which are $\frac{1}{2}$ of
5 the amounts contained therein.

6 “(3) ADJUSTED GROSS INCOME.—For purposes
7 of this subsection, adjusted gross income shall be de-
8 termined—

9 “(A) without regard to this section and
10 sections 199, 911, 931, and 933, and

11 “(B) after application of sections 86, 135,
12 137, 219, 221, and 469.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

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